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10/028,756	12/21/2001	Monica A. McClintic	5082US (01-01-057)	2572

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EXAMINER

MOSSER, ROBERT E

ART UNIT PAPER NUMBER

3714

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/028,756

Applicant(s)

MCCLINTIC, MONICA A. *CA*

Examiner

Robert Mosser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8-23-04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 41-78 and 81-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 77,78 and 81-94 is/are allowed.
- 6) ☒ Claim(s) 41-45,47-63 and 65-76 is/are rejected.
- 7) ☒ Claim(s) 46 and 64 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8-23-2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION



In response to the amendment filed August 23rd, 2004.

Claims **41-78** and **81-94** are pending.



#### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 8-23-2004 has been considered and copy has been included for your reference. The included reference to Tessmer et al (2003/0104853) has been considered only to the point that the filling date associated therewith is after the filling date of the instant application and hence does not constitute prior art under USC 102.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims **41, 42, 44, 48-60, 62, and 66-76** are rejected under 35 U.S.C. 103(a) as being unpatentable over Turner (US 4,684,136) in view of Walker et al (6,193,606) in further view of Marnell (US 5,393,057).

Regarding at least claims **41, 42, 44, 48, 56-60, 62, 66, 74-76**:

Turner teaches a game playable on a computer (Col 2:33-35) as well as between players (2:47-52) comprising: a display matrix including a plurality of spaces (Figure1); trivia topics assigned to and displayed in association with selected spaces of a matrix (14);

a randomly selected trivia question associated with each of said trivia topics and displayed upon the selection of one of said selected topics (Col 2:8-26 & Figure 4);

a plurality of possible answers to said randomly selected trivia question presented to a player in association with the display of said randomly selected trivia question (Col 3:45-48) wherein the player is referred to a playing card for geographical or identification type questions;

and an award associated with a player providing a correct answer to at least one of said trivia questions (Col 3:4-9) wherein the award described is the occupation of a space in the playing category by a playing piece.

The trivia matrix is understood to contain fewer trivia topics/questions than all of the spaces of the matrix as the game progresses (i.e. After one trivia question is answered correctly by a player that space is no longer available and hence no longer has a trivia topic associated therewith) and playable by at least two players (Col 2:47-52).

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The matrix of Turner is understood to contain multiple smaller matrices and hence displays "another" matrix on both a correct previous answer as well as an incorrect previous answer by the player as presented in at least claims **49** and **67**.

The game of Turner occurs in alternating turns between players repeating the general process described above (Col 3:1-9) as claimed in at least claims **50**, **66**, and **68**.

Turner is however silent on the incorporation of this game as a bonus game (event to a base game) or the inclusion of wagering.

Walker et al teaches an electronic gaming device offering a game of knowledge for enhanced payouts including:

Allowing players to deposit (1104) and wager (1108) coins in a base game;

Automatically starting the trivia game after the conclusion of the base game (Figure 11);

Allowing players to choose their preferred trivia topic (550);

Providing the players with a question and possible answers (Figure 3B) after the start of the primary game (Figure 11) or bonus game as so claimed; and

Providing the player an award for correctly answering at least one trivia question (1156 & Figure 11).

Walker et al additional teaches that his base game may consist of a variety of games including a reel game and a video poker game (Col 4:42-47).

Walker et al is however silent on the incorporation of a matrix allowing players to select the trivia topic from a matrix of topics.

It would have been obvious for one of ordinary skill in the art at the time of invention to have incorporated the knowledge game of Turner with the knowledge game allowing enhanced payouts of Walker et al in order to allow the player to compete against other players during trivia rounds as taught by Turner (Col 2:47-52) and acquire prizes for successfully doing so.

As presently amended the invention of Turner/Walker is silent regarding "an initial display of the matrix having fewer than all of the plurality of spaces having a trivia topic associated therewith. In a related invention Marnell teaches the use of "wild" or free location with no trivia topic associated therewith (Figure 3 & Element 75) matrix location and the use of trivia questions to complete the matrix (Col 3:61-62). It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated a "wild" space as taught by Marnell in the invention of Turner/Walker to increase the probability of a player achieving a line combination.

Regarding claims **51-53**, and **69-71** and in addition to the above stated, Turner teaches the winning outcome of the game as being based on completing the matrix in a tic-tac-toe fashion and as such dependent on completing the matrix in a pre-specified arrangement (Turner Abstract) but is silent on providing an award for this completion. Walker et al however teaches the awarding of a prize for correctly answering trivia questions as taught above. It would have been obvious to one of ordinary skill in the art

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at the time of invention to award a prize as taught by Walker in the game of Turner in order reward the player for winning the game.

Regarding claims **54**, and **55**, and in addition to the above stated Walker et al teaches indicating both when the player has selected the correct answer and incorrect answer on the display of the game system but is silent as to the placement of the indicia on the display screen (Col 11:28-45).

Turner teaches the insertion of playing piece 16 into a spot on the board to indicate a correct answer.

It would have been obvious to one of ordinary skill in the art at the time of invention to place the indicia of Walker et al in the respective matrix positions of Turner to which the question corresponds in order to clearly identify the performance of the player to the player in addition to the reasons cited above.

Claims **43**, and **61** are rejected under 35 U.S.C. 103(a) as being unpatentable over Turner (US 4,684,136) in view of Walker et al (6,193,606) in further view of Marnell (US 5,393,057) in yet further view of Seelig et al (US 2003/0036418).

The game of Turner/Walker/Marnell as taught above is silent regarding allowing the player to choose if they would like to proceed to the bonus game (secondary game). This feature however, is taught by Seelig (Fig 3 & Elm 54) in a bonus slot gaming system. It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated the choice feature of Seelig into the game of

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Turner/Walker/Marnell in order to allow the player to play the bonus game when then choose to rather than being forced into the bonus game.

Claims **45, 47, 63, and 65** are rejected under 35 U.S.C. 103(a) as being unpatentable over Turner (US 4,684,136) in view of Walker et al (6,193,606) in further view of Marnell (US 5,393,057), and yet in further view of Adams (US 6,120,031).

In addition to the above stated the description of a of a "wild" card as described by the instant application (Paragraphs 7 and 8) or alternatively the description by Adams of awarding a player a "wild" card, which they may decide to implement at a time or hand of their choosing (See Abstract) describes the feature described as a "pass" in the instant application.

Adams discloses a card game including electronic embodiments (Fig 1) in which a player may receive a "wild" card during the play of the game. This wild card may then be utilized in a subsequent hand to alter the hand outcome (Abstract). This correlates to awarding a "pass" or equivalently a "wild" card during the occurrence of predefined event of winning the "pass" or "wild" card. And further the use of this wild card in a subsequent hand reads on the "pass" may be used by the player in lieu of a correct answer to a randomly selected trivia question.

It would have been obvious to one of ordinary skill in the art at the time of invention to have implemented Adam's "wild" card as describe above in the invention of Turner/Walker/Marnell in order to provide players without perfect knowledge the ability to have a second chance when confronted with an unfamiliar trivia topic or alternatively



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to maintain the suspense between multiple players in competition by allowing strategy to play a role in game play even when the respective player may not know the trivia answer that might otherwise be a prerequisite to the strategic game play.

### ***Response to Arguments***

Applicant's arguments filed August 28<sup>th</sup>, 2004 have been fully considered but they are not persuasive. Arguments directed to the newly claimed feature of "an initial display of the matrix having fewer than all of the plurality of spaces having a trivia topic associated therewith", has been addressed in the rejection presented above.

### ***Allowable Subject Matter***

Claims **77-78** and **81-94** are allowed. Specifically the presence of a bonus trivia game wherein the player is able to purchase a "pass" for either real monies or game credits is not taught in the art has been presented or discovered as of this juncture.

Claims **46, 64** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Specifically the presence of a bonus trivia game wherein the player is able to purchase a "pass" for either real monies or game credits is not taught in the art has been presented or discovered as of this juncture.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (571)-272-4451. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on (571)272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM



**JESSICA HARRISON**  
**PRIMARY EXAMINER**

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